

## CONGRESSIONAL RECORD SUMMARY

Thursday, December 13, 2001, Parts I & II

### SENATE

#### Measures Introduced:

**S. 1818.** *A bill to ensure that a Federal employee who takes leave without pay in order to perform service as a member of the uniformed services or member of the National Guard shall continue to receive pay and allowances such individual is receiving for such service, will be no less than the basic pay such individual would then be receiving if no interruption in employment had occurred; to the Committee on Governmental Affairs.*

Durbin

*Pages S 13145, S 13147-8*

**S. 1821.** A bill to **amend title 5, United States Code**, to allow certain catch-up contributions to the Thrift Savings Plan to be made by participants age 50 or over, and to afford employees and Members full immediate participation in the Thrift Savings Plan upon commencing Federal service; to the Committee on Governmental Affairs.

Akaka

*Page S 13145*

**S. 1822.** A bill to **amend title 5, United States Code**, to allow certain catchup contributions to the Thrift Savings Plan to be made by participants age 50 or over; to the Committee on Governmental Affairs.

Akaka

*Page S 13145*

**S. 1828.** *A bill to amend subchapter III of chapter 83 and chapter 84 of title 5, United States Code, to include Federal prosecutors within the definition of a law enforcement officer, and for other purposes; to the Committee on Governmental Affairs.*

*"...This bill would correct an inequity that exists under current law, whereby Federal prosecutors receive substantially less favorable retirement benefits than other nearly all other people involved in the Federal criminal justice system. The bill would increase the retirement benefits given to Assistant United States Attorneys by including them as 'law enforcement officers' 'LEOs,' under the Federal Employees' Retirement System and the Civil Service Retirement System. The bill would also allow the Attorney General to designate other attorneys employed by the Department of Justice who act primarily as criminal prosecutors as LEO's for purposes of receiving these retirement benefits..."*

Leahy

*Page S 13145, S 13153-5*

#### Measures Reported:

**H.R. 1892**, to amend the Immigration and Nationality Act to provide for the acceptance of an affidavit of support from another eligible sponsor if the original sponsor has died and the Attorney General has determined for humanitarian reasons that the original sponsor's classification petition should not be revoked, with an amendment.

**H.R. 2048**, *to require a report on the operations of the State Justice Institute.*

*Pages S 13144-5, D 1249*

#### S. 1731. Federal Farm Bill:

**Senate continued consideration of S. 1731**, to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, taking action on the following amendments proposed thereto:

*Pages S 13079-99, S 13101-13, S 13116-18,  
S 13138-40, D 1250*

#### S. 1731. Federal Farm Bill (Cont'd.):

**Adopted:**

***By 64 yeas By 64 yeas to 31 nays, and 1 responding present (Vote No. 366), Feingold/ Grassley/Harkin Amendment No. 2522 (to Amendment No. 2471), to reform certain mandatory arbitration clauses.***

*Pages S 13087-91, S 13091-2, D 1250*

*"...When one chooses arbitration, he then waives rights to access to the courts and the constitutional right to a jury trial. Certain standardized court rules are also waived, such as the right to discovery. This is important because a farmer must prove his case, the company has the relative information, and the farmer cannot prevail unless we can compel disclosure of relevant information. Moreover, longstanding law states that a waiver of rights by a party must be knowing and voluntary. A farmer cannot waive such rights in a knowing and voluntary way when he is only bargaining about a processor- drafted contract about price and volume terms. He cannot make a knowing and voluntary waiver in a vacuum when a dispute does not exist and has not been contemplated. I am pleased to join Senator Feingold in support of this amendment to prohibit mandatory arbitration clauses from being included in contracts between packers and livestock producers..." (Grassley, Page S 13089)*

**Pending:**

***Daschle (for Harkin) Amendment No. 2471***, in the nature of a substitute.

*Pages S 13080-99, S 13101-13, S 13116-18,  
S 13138-40, D 1250*

***Smith (NH) Amendment No. 2596 (to Amendment No. 2471)***, to provide for Presidential certification that the government of Cuba is not involved in the support for acts of international terrorism as a condition precedent to agricultural trade with Cuba.

*Pages S 13102-10, D 1250*

***Torricelli Amendment No. 2597 (to Amendment No. 2596)***, to provide for Presidential certification that all convicted felons who are living as fugitives in Cuba have been returned to the United States prior to the amendments relating to agricultural trade with Cuba becoming effective.

*Pages S 13104-10, D 1250*

***Daschle motion*** to reconsider the vote (Vote 368) by which the motion to close further debate on ***Daschle (for Harkin) Amendment No. 2471*** (listed above) failed.

*Pages S 13112, D 1250*

**During consideration of this measure today, Senate also took the following actions:**

By 53 yeas to 45 nays (Vote No. 368), three-fifths of those Senators duly chosen and sworn not having voted in the affirmative, ***Senate failed to agree to the motion to close further debate on Daschle (for Harkin) Amendment No. 2471 (listed above).***

*Pages S 13112, D 1250*

A unanimous-consent agreement was reached providing for the filing of second degree amendments to ***Daschle (for Harkin) Amendment No. 2471 ( listed above)***, until 11 a.m., on Friday, December 14, 2001.

*Pages S 13092-3, D 1250*

A unanimous-consent agreement was reached providing for further consideration of the bill on Friday, December 14, 2001, that the pending ***Smith (NH) and Torricelli amendments (listed above)*** be laid aside, and that Senators Wellstone and McCain be recognized to offer certain amendments.

*Pages S 13139, D 1251*

**S. 1438. Department of Defense Authorization Act Conference Report:**

By 96 yeas to 2 nays (Vote No. 369), ***Senate agreed to the conference report on S. 1438***, to authorize appropriations for fiscal year 2002 for military activities of the Department of Defense, for military constructions, and for defense activities of the Department of Energy, and to prescribe personnel strengths for such fiscal year for the Armed Forces, clearing the measure for the President.

*Pages S 13113, S 13118-38, D 1251*

**H.R. 2883. Intelligence Authorization Act Conference Report:**

By unanimous consent, ***Senate agreed to the conference report on H.R. 2883***, to authorize appropriations

for fiscal year 2002 for intelligence and intelligence- related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, clearing the measure for the President.

*Pages S 13113, D 1251*

**H.R. 1. Education Reform Conference Report--Agreement:**

A unanimous-consent-time agreement was reached providing for consideration of the conference report on **H.R. 1**, to close the achievement gap with accountability, flexibility, and choice, so that no child is left behind, at 1 p.m., on Monday, December 17, 2001, and on Tuesday, December 18, 2001, with a vote on adoption of the conference report to occur on Tuesday at 11 a.m.

*Pages S 13093, D 1251*

**Nominations Confirmed:**

**Senate confirmed the following nominations:**

*By unanimous vote of 97 yeas (Vote No. EX. 370), Frederick J. Martone, of Arizona, to be United States District Judge for the District of Arizona.*

*William P. Johnson, of New Mexico, to be United States District Judge for the District of New Mexico.*

*Clay D. Land, of Georgia, to be United States District Judge for the Middle District of Georgia.*

*Pages S 13099, S 13113-16, D 1251*

**Nominations Received:**

**Senate received the following nominations:**

*Nehemiah Flowers, of Mississippi, to be United States Marshal for the Southern District of Mississippi for the term of four years.*

*Arthur Jeffrey Hedden, of Tennessee, to be United States Marshal for the Eastern District of Tennessee, for the term of four years.*

*David Glenn Jolley, of Tennessee, to be United States Marshal for the Western District of Tennessee for the term of four years.*

*Dennis Cluff Merrill, of Oregon, to be United States Marshal for the District of Oregon for the term of four years.*

*Michael Wade Roach, of Oklahoma, to be United States Marshal for the Western District of Oklahoma for the term of four years.*

*Eric Eugene Robertson, of Washington, to be United States Marshal for the Western District of Washington for the term of four years.*

*John Magaw, of Maryland, to be Under Secretary of Transportation for Security for a term of five years. (New Position)*

*Andrea G. Barthwell, of Illinois, to be Deputy Director for Demand Reduction, Office of National Drug Control Policy.*

*Pages S 13099, D 1251*

**Committee Meetings:**

**Committee on Governmental Affairs:** Committee concluded hearings to examine the security status of U.S. passenger and transit rail infrastructure, focusing on counter-terrorism equipment, security related training programs, and technologies capable of detecting chemical and biological agents on transit systems.

**Committee on the Judiciary:** Committee ordered favorably reported the following business items: **H.R. 1892**, to amend the Immigration and Nationality Act to provide for the acceptance of an affidavit of support from another eligible sponsor if the original sponsor has died and the Attorney General has determined for humanitarian reasons that the original sponsor's classification petition should not be revoked, with an amendment; **H.R. 861**, to make technical amendments to section 10 of title 9, United States Code; **H.R. 2048**, *to require a report on the operations of the State Justice Institute; the nominations of Callie V. Granade, to be United States District Judge for the Southern District of Alabama, Marcia S. Krieger, to be United States District Judge for the District of Colorado, James C. Mahan, to be United States District Judge for the District of Nevada, Philip R. Martinez, to be United States District Judge for the Western District of Texas, C. Ashley Royal, to be United States District Judge for the Middle District of Georgia, and Michael A. Battle, to be United States Attorney for the Western District of New York, Christopher James Christie, to be United States Attorney for the District of New Jersey, Harry E. Cummins III, to be United States Attorney for the Eastern District of Arkansas, David Preston York, to be United States Attorney for the Southern District of Alabama, and Dwight MacKay, of Montana, to be United States Marshal for the District of Montana, all of the Department of Justice.*

Pages D 1252-3

**Committee on the Judiciary:** Subcommittee on Technology, Terrorism, and Government Information concluded hearings to examine the protection of our homeland against terror, focusing on policy, planning, and resource allocation responsibilities coordination, future operational solutions which balance apportionment of forces nationally and abroad, and local, state, and federal interagency cooperation improvement.

Page D 1253

**Remarks:**

Nomination Of Eugene Scalia.

Hatch

Pages S 13287-390

Reservists Pay Security Act Of 2001. (**S. 1818**)

Mikulski

Pages S 13294-5

**HOUSE**

**Bills Introduced:**

**H.R. 3482.** A bill to provide greater cybersecurity; to the Committee on the Judiciary.

Smith

Page H 10066

**H.R. 3483.** A bill to amend title 31, United States Code, to provide for intergovernmental cooperation to enhance the sharing of law enforcement information; to the Committee on the Judiciary.

Horn

*Page H 10066*

**H.R. 3488.** A bill to amend the Internal Revenue Code of 1986 to expand pension benefits to those without retirement plans and provide additional protections to those who participate in the current system; to the Committee on Ways and Means, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

Coyne

*Page H 10066*

**H.R. 3494.** A bill to give the Federal Bureau of Investigation access to NICS records in law enforcement investigations, and for other purposes; to the Committee on the Judiciary.

McCarthy

*Page H 10066*

**H.R. 3497.** A bill to amend the Social Security Act and the Internal Revenue Code of 1986 to preserve and strengthen the Social Security Program through the creation of personal Social Security guarantee accounts ensuring full benefits for all workers and their families, restoring long-term Social Security solvency, to make certain benefit improvements, and for other purposes; to the Committee on Ways and Means.

Shaw

*Page H 10066*

**Report Filed:**

**Report was filed today as follows:**

**H.R. 3084,** to revise the discretionary spending limits for fiscal year 2002 set forth in the Balanced Budget and Emergency Deficit Control Act of 1985 and to make conforming changes respecting the appropriate section 302(a) allocation for fiscal year 2002 established pursuant to the concurrent resolution on the budget for fiscal year 2002 (House Report 107-338).

*Pages H 10065, D 1254*

**H.J. Res. 78. Making Further Continuing Appropriations Through December 21:**

*The House passed H.J. Res. 78, making further continuing appropriations for the fiscal year 2002. The joint resolution was considered pursuant to the order of the House of Wednesday, Dec. 12.*

*Pages H 10061-4, D 1254*

**S. 1438. Department of Defense Authorization Conference Report:**

*The House agreed to the conference report on S. 1438,* to authorize appropriations for fiscal year 2002 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces by a ye-a-and-nay vote of 382 yeas to 40 nays, Roll No. 495.

*Pages H 10073-80, D 1254*

Earlier the House agreed to **H. Res. 316**, the rule that waived points of order against the conference report by voice vote.

**H. Con. Res. 288. Technical Correction in Enrollment of DOD Authorization Act:**

*The House agreed to H. Con. Res. 288*, directing the Secretary of the Senate to make a technical correction in the enrollment of S. 1438, National Defense Authorization Act for Fiscal Year 2002.

Pages H 10080-2, D 1254

**H.R. 1. No Child Left Behind Act:**

*The House agreed to the conference report on H.R. 1*, to close the achievement gap with accountability, flexibility, and choice, so that no child is left behind by a recorded vote of 381 ayes to 41 noes, Roll No. 497.

Pages H 10092-H 10113, D 1254

*Earlier the House agreed to H. Res. 315*, the rule that waived points of order against the conference report by voice vote.

Pages H 10082-92, D 1254

**H. Con. Res. 289. Technical Correction in Enrollment of No Child Left Behind Act:**

*The House agreed to H. Con. Res. 289*, directing the Clerk of the House of Representatives to make technical corrections in the enrollment of H.R. 1, No Child Left Behind Act.

Pages H 10113-14, D 1254

**H.R. 2884. Victims of Terrorism Relief Act:**

*The House agreed to the Senate amendments to H.R. 2884*, to amend the Internal Revenue Code of 1986 to provide tax relief for victims of the terrorist attacks against the United States on September 11, 2001, with an amendment. The motion to concur in the Senate amendments with an amendment was considered pursuant to an earlier unanimous consent order (the Senate amended the title so as to read: An act to amend the Internal Revenue Code of 1986 to provide tax relief for victims of the terrorist attacks against the United States).

Pages H 10115-41, D 1254

**Committee Meetings:**

**Committee on Government Reform:** Held a hearing on “*The FBI’s Handling of Confidential Informants in Boston: Will the Justice Department Comply with Congressional Subpoenas?*”

**Committee on the Judiciary:** Subcommittee on Courts, the Internet and Intellectual Property concluded oversight hearings on “*The Digital Millennium Copyright Act Section 104 Report.*”

Page D 1255

**Remarks:**

Administrative Simplification Compliance Act. (**H.R. 3323**)

Udall

Pages E 2272-3

Bill Of Rights Cannot Be The Next Victim Of Terrorism.

Woolsey

Pages E 2283-4

**Introduction Of Military Tribunals Legislation.**

“... First, we authorize military tribunals to try foreign nationals in venues like military bases or aircraft

*carriers outside the United States. Our federal courts and courts martial operated pursuant to the Uniform Code of Military Justice are capable of trying U.S. citizens, legal residents, and others within the United States. In this regard, we applaud yesterday's news that Zacarias Moussaoui has been indicted and will be tried in Federal Court on conspiracy charges. [ ] Fourth, we make clear that habeas corpus is not waived. Article 1, Section 9 of the Constitution requires action by Congress to suspend this right: a President cannot waive it by military order. Congressional action will contribute to public and international acceptance of the use of military tribunals by making sure they are done right..."*

Harman

*Pages E 2284-5*

**The Foreign Terrorist Military Tribunal Authorization Act.**

*"... We are a nation of laws. The most important, our original law, is our Constitution. Article 1, Section 9 provides that the writ of Habeas Corpus may only be suspended when the public safety may require it and then only in cases of rebellion or invasion. Suspension require Congress to act. It is not the President's prerogative. Even President Lincoln, who felt the need to suspend Habeas during the civil war, had to seek and obtain approval from Congress to do so. We have expressly preserved habeas corpus in our bill..."*

Lofgren

*Page E 2285*

**NEW PUBLIC LAW**

***S. 1459, to designate the Federal building and United States courthouse located at 550 West Fort Street in Boise, Idaho, as the "James A. McClure Federal Building and United States Courthouse." Signed on December 12, 2001. (Public Law 107-80)***

*Page D 1255*

**Next SENATE MEETING: Friday, 9:30 a.m., December 14, 2001.**

**Next HOUSE MEETING: Friday, 2:00 p.m., December 14, 2001.**

**OLA: S. Schwarz (Smith)**